

# ARKANSAS COURT OF APPEALS

DIVISION III  
No. CACR 08-277

ANDRE WILLIAMS

APPELLANT

V.

STATE OF ARKANSAS

APPELLEE

**Opinion Delivered** September 10, 2008

APPEAL FROM THE PULASKI  
COUNTY CIRCUIT COURT,  
[NO. CR-2007-2530]

HONORABLE JOHN W.  
LANGSTON, JUDGE

AFFIRMED

---

**EUGENE HUNT, Judge**

Appellant Andre Williams was convicted by the Pulaski County Circuit Court of theft by receiving. He appeals his conviction and alleges that the trial court erred in failing to grant his motions for directed verdict. We find no error and affirm.

At Mr. Williams's bench trial held on October 15, 2007, Lauren McClendon testified that on the morning of June 17, 2007, her vehicle, a 2001 Mitsubishi Mirage, was stolen from the Walgreens drug store at Asher and University. According to Ms. McClendon, it was raining the morning of the theft and she must have dropped her keys as she walked toward the Walgreens store. Ms. McClendon did not notice that her keys were missing until she came out of the store approximately five minutes later and her vehicle was missing. Ms. McClendon called the Little Rock Police Department and reported her vehicle stolen.

At trial, Ms. McClendon testified that she purchased the vehicle a year earlier for \$15,000. The vehicle was recovered late in the afternoon of June 17, 2007.

Officer Jessica Eubanks of the Little Rock Police Department testified that she was dispatched to a mobile home on Community Lane in connection with Ms. McClendon's stolen vehicle. She found the stolen vehicle parked in front of a mobile home. When she opened the driver's door of the vehicle, Mr. Williams was sitting in the driver's seat with the engine running. There was a female passenger in the vehicle who stated that Mr. Williams had picked her up. When Officer Eubanks questioned Mr. Williams about the vehicle, he told her that he "traded this car for something." Officer Eubanks did not interview anyone other than Mr. Williams and his passenger. Officer Eubanks was not told by Mr. Williams who resided in the mobile home where the vehicle was located. According to Officer Eubanks, Mr. Williams lived approximately six miles from Community Lane.

Mr. Williams testified that on June 17, 2007, he walked to Community Lane to find a "date." Mr. Williams and his "date" then went to the mobile home on Community Lane so that the "date" could purchase drugs. According to Mr. Williams, he asked the owner of the mobile home for a ride home, but the owner declined. Mr. Williams said the owner, whom he had known three to four months, allowed him to rent the vehicle for fifteen dollars. Mr. Williams stated that he was in the vehicle for a couple of minutes when he was approached by the police. Mr. Williams stated, "There was nothing about this situation that caused me concern that this vehicle may have been stolen. The car was in perfect condition.

I didn't see no damage on the car. . . . She had the keys, I was given the keys, and that was good enough for me.”

Mr. Williams moved for a directed verdict at the conclusion of the State's evidence and again following the presentation of all the evidence. The trial court denied the motions. Mr. Williams was found guilty of theft by receiving. He was adjudged a habitual offender and was sentenced to fifteen years' imprisonment in the Arkansas Department of Correction. This appeal followed.

Mr. Williams argues that the trial court erred in denying his motion for directed verdict because there was insufficient evidence that he knew that the vehicle was stolen. When a challenge is made to the sufficiency of the evidence, we consider only the evidence that supports the verdict, viewing the evidence in the light most favorable to the State. *Slater v. State*, 76 Ark. App. 365, 65 S.W.3d 481 (2002). The test is whether there is substantial evidence to support the verdict; substantial evidence is evidence that is of sufficient force and character that it will, with reasonable certainty, compel a conclusion one way or another. *Id.* at 369, 65 S.W.3d at 484.

A person commits the offense of theft by receiving if he receives, retains, or disposes of stolen property of another person, knowing that it was stolen or having good reason to believe it was stolen. Ark. Code Ann. § 5-36-106(a) (Repl. 2006). The unexplained possession or control by a person of recently stolen property or the acquisition by a person of property for a consideration known to be far below its reasonable value shall give rise to a presumption that he knows or believes that the property was stolen. *Id.* § 5-36-106(c). An

accused's unexplained possession or control of recently stolen property is prima facie evidence of his guilt of theft by receiving. *Hall v. State*, 299 Ark. 209, 772 S.W.2d 317 (1989). If possession of the stolen property is not satisfactorily explained to the trier of fact, such possession is sufficient to sustain a conviction of theft by receiving. *Wilson v. State*, 10 Ark. App. 176, 662 S.W.2d 204 (1983).

Mr. Williams was found in possession of stolen property the same day it was reported stolen, and Arkansas law presumes that he knew or should have known that the vehicle was stolen. Mr. Williams offered two explanations for how he acquired the vehicle. He was subsequently found guilty of theft by receiving. Viewing the evidence in the light most favorable to the State, as we must, there is sufficient evidence to support Mr. Williams's conviction.

Affirmed.

GRIFFEN, J., agrees.

HART, J., concurs.

HART, J., concurring. A person commits a theft by receiving if he receives, retains, or disposes of stolen property of another person knowing that the property was stolen or having good reason to believe the property was stolen. Ark. Code Ann. § 5-36-106(a) (Repl. 2006). Appellant was clearly in possession of the stolen vehicle, so he argues on appeal that the State failed to prove that he knew or had good reason to believe the property was stolen.

Appellant gave two explanations for being in possession. He told the police that he "traded this car for something." He then testified at trial that he rented the vehicle for fifteen

dollars. His inconsistent statements indicate consciousness of guilt. See *Austin v. State*, 26 Ark. App. 70, 760 S.W.2d 76 (1988) (holding in theft-by-receiving case that use of a false name to avoid detection is relevant on the issue of the consciousness of guilt and is a circumstance in corroboration of evidence tending to establish guilt). Thus, I concur in the majority's decision to affirm..